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August 28, 1992

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VIA MESSENGER

United States Environmental  
Protection Agency  
Community Relations Coordinator  
77 West Jackson Boulevard  
Chicago, Illinois 60605

ATTENTION: Ms. Karen Martin (P-195)

RE: Supplemental Post-1975 PRP Comments on the Proposed Plan  
for Remedial Action/American Chemical Service Site,  
Griffith, Indiana

Dear Ms. Martin:

INTRODUCTION

Alumax Inc., (Alumax) an alleged Post-1975 potentially responsible party (PRP) has reviewed the Administrative Record (AR) for the American Chemical Service (ACS) National Priorities List Site (Site or the ACS Site) in Griffith, Indiana. Alumax has also reviewed the "Comments on the Proposed Plan for Remedial Action dated August 28, 1992, prepared by Warzyn, Inc. (Warzyn), and Conestoga-Rovers Associates (CRA) (Technical Comments), as well as the "Comments to Proposed Plan for Remedial Action" dated August 28, 1992 prepared by and on behalf of other potentially responsible parties, including Alumax (PRP Comments). On behalf of Alumax, an alleged Post-1975 PRP, and other parties similarly situated, please allow the following comments to supplement the previously cited comments.

TECHNICAL AND PRP COMMENTS

Inasmuch as the Technical Comments and the PRP Comments address issues concerning the Proposed Plan for Remediation, these Supplemental, Post-1975 PRP Comments (Post-1975 PRP Comments)

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incorporate by reference, as if fully included herein, the full text of the Technical Comments and the PRP Comments. These Post-1975 PRP Comments shall be construed and interpreted as fully consistent with the Technical Comments and the PRP Comments. These Post-1975 PRP Comments shall address issues affecting Post-1975 PRPs and their unique position concerning potential liability at the ACS Site based upon issues of timeliness, toxicity, temporal operational and factual distinctions at the ACS Site and reasonable reliance upon prior activities and practices of the United States Environmental Protection Agency (USEPA).

As stated in the Technical Comments, it is not the intent of Alumax, or those parties similarly situated, to request changes to the Proposed Plan that would cause USEPA to miss the Record of Decision (ROD) deadline. However, Alumax, and others similarly situated, believe changes are necessary that would facilitate a fair and equitable apportionment of the liability of the parties and result in a less contentious, more innovative, and successful Remedial Action, and would obviate the need to prepare a Revised Proposed Plan. The following recommendations are designed to enhance the success of the proposed Remedial Action (RA).

### FURTHER FACTUAL INVESTIGATION IS REQUIRED

As the issues of liability facing the Post-1975 PRPs concern the operations at the ACS Site after 1975, we note that the Administrative Record (AR) fails to critically describe the activities at the ACS Site after 1975. Indeed, we have discovered several inconsistencies, data gaps and ambiguities. Inasmuch as the investigations to date were not concerned with, and did not focus on, Post-1975 activities at the ACS Site, perhaps due in part to the fact that Post-1975 PRPs were only recently identified by USEPA as PRPs at the ACS Site, more investigation is needed. To that extent, please be advised of the following.

The final Remedial Investigation (RI) (AR at 137; Section 1.3.2.1) purports to describe, in detail, the "History of Site Operations" at the ACS Site. Therein the report fails to specifically document the chronological history of unit operations, (with the locations of units and reference to a Site map,) and is missing the description of the various processes at the ACS Site, and the time periods of such operations. (For example, it is not clear when the treatment lagoons were abandoned, or when the on-site incinerator activities were stopped, or when the fuel-blending operations were instigated). Appendix B of the same document

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(Environmental Audit of ACS) also similarly fails to document the chronological historical operations. Table 2-1 of the Work Plan identifies the disposal locations and waste types, but fails to describe how the various waste units were processed.

Also, we note data gaps in the Initial Site Investigation of March 26, 1985. Therein, specific information is lacking concerning the types, quantities and location of wastes allegedly disposed of by ACS, and specific information is lacking concerning the type, quantity and location of wastes allegedly disposed of by "Kapica Drum" and its successors, or the dates of operation at the "Kapica Drum" Site and the types of activities involved at the "Kapica Drum" Site.

Furthermore, we note that Tables 2 and 3 of the Initial Site Investigation of March 26, 1985 do not correspond to the narrative discussion of the plant operations describing the waste streams at the ACS Site from acceptance of the materials at ACS through off-loading, storage and processing at the ACS Site, or, off the ACS Site. The information should be correlated to units identified on Site maps in order to assist in the identification of how and when various units were used and what happened to these units.

We note also that the letter from Mr. James Tarpo, (President of ACS, Inc.) dated January 18, 1985 describing, inter alia, the physical characteristics of the plant and the plant and operations and the disposal practices there, must be reviewed in conjunction with other evidence thereof. There is significant conflicting evidence as to how ACS processed solvents in general. In the Trip Report, Item 9 of the AR (dated March 15, 1985), Mr. Tarpo reportedly said that "the solvent that was brought in from generators were [sic] never purchased back as reclaimed products...." Mr. Tarpo also stated that all of the ACS products "have been made from raw materials that were shipped to him." This statement is inconsistent with various factual assumptions that form the basis of the alleged liability for the various PRPs, and needs to be clarified. This clarification is also necessary in order for USEPA to fully provide a basis for the selection of the RA.

Furthermore, Chapter 3 of the Feasibility Study (FS) (Section 3.4.5) states that from 1981 to 1987, Mr. Pazdro (Kapica Drum successor) recycled and cleaned used drums. However, according to the CERCLA Section 104(e) Response of ACS, Inc., ACS did not conduct business with Mr. Pazdro following Pazdro's purchase of the

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enterprise from Mr. Kapiz. We note the affidavit of John J. Murphy found in the AR at 172, wherein the Affiant states that from 1975 until August, 1980 Kapica and Pazmay picked up drums from ACS, Inc. for reconditioning. This conflicting evidence needs to be resolved and directly affects the alleged liability of the Post-1975 PRPs, including the divisibility of the separable elements of the proposed RA to be attributed to all of the PRPs. Again, too, this evidence is necessary in order for USEPA to provide a basis for the RA's selection.

The status of the processes at the ACS Site after 1975 is not fully developed in the current investigation described in the AR. As has been the case at other recycling facilities, ACS, Inc. may have used solvent and other wastes as fuel directly from the drummed receipts, perhaps as part of a fuel-blending operation wholly unrelated to the ACS site, and not within the process associated with the ACS Site. Inasmuch as the used solvents and wastes were processed, or even disposed of off the ACS Site after 1975, these facts directly bear on the alleged liability of the Post-1975 PRPs and the divisibility of responsibility for implementation of the RA. The issues concerning processing used solvents and other wastes off-site must be further investigated to preserve the integrity of the anticipated voluntary clean up and the allocation of liability process contemplated by the PRPs and USEPA. Furthermore, further investigation of the processes involved at the ACS Site prior to 1975 that were discontinued (or continued) after 1975, needs significant clarification.

In that regard, recycling and chemical processing operations similar to the operations at the ACS Site have typically improved over time the design and efficiency of their operations, by, among other things, providing for secondary containment and other environmental controls, including controls to reduce emissions and releases. These types of improvements were undertaken by ACS, Inc. at the ACS Site. For example, ACS, Inc. added secondary containment to the above ground storage tank farms at some point after 1975. Inasmuch as USEPA provided ACS, Inc. with a RCRA permit in 1980, there is every reason to believe that additional environmental controls were added to the ACS Site in order to satisfy the strictures of the RCRA Application and the receipt of the RCRA Permit. These improvements, the representations made in the permit Application, the design specifications, the process involved, and so on, need further investigation in order to fairly assess the allocation and the divisibility of responsibility for

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the anticipated voluntary clean up and performance of the RA.

Further investigation is needed to also discover whether or not the chlorinated solvents were segregated from non-chlorinated solvents by perhaps, the use of separate stills (assuming, of course, that the Post-1975 PRP's used solvents and wastes were distilled or otherwise treated at the ACS Site after 1975). Also, information is lacking as to the processes involved regarding the treatment, storage and disposal of still bottoms associated with different contamination. Were they treated, stored, processed and disposed of differently? Did ACS, Inc., after 1975 (or at anytime), process the wastes in batches for customers in general, or for individual customers? What impact did water have in the ACS, Inc. process? What were the various recovery rates for each of ACS's customers. Was virgin solvent purchased by PRPs from ACS, Inc? Is it possible to characterize the waste received from customers by the processes involved in the generation thereof (e.g., paint applicators, paint manufacturers, degreasers, resin manufacturers, plastic manufacturers, magnetic type manufacturers, etc.?).

In other Superfund Sites with diverse groups of customers, further investigations have revealed information that assisted in the calculation of the "net waste bottoms" attributable to a given PRP, rather than basing liability and allocation on gross liquids received of unknown origin. The information generated in a similar investigation may assist in determining the solubility, evaporation rate, density, boiling point, and so on of the materials, relative to the amount of contamination to be remediated at the ACS Site and relevant to the selected RA.

## TIMING

Inasmuch as USEPA recently gave notice of potential liability to Post-1975 PRPs after the RI/FS was completed, and just prior to the proposed ROD issuance date, Post-1975 PRPs are at a disadvantage in determining their threshold liability, if any, at the ACS Site, and their respective share of liability, if any, in relation to other PRPs. Post-1975 PRPs have generally been unable, on such short notice, to assimilate all of the documents, reports and other evidence contained in the 20 volumes of the AR, or to perform other investigations relative to their position or those of others. The opportunity to properly comment on the Proposed Plan, is to some extent, illusory for Post-1975 PRPs who have, at least, received notice of potential liability from USEPA, but is non-

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existent to those Post-1975 PRPs who have yet to receive Notice of their potential liability from USEPA. In order to avoid the necessity for a Revised Proposed Plan, and the significant arguments of those with little or no notice concerning the ROD-to-be issued, the further investigations herein described should be undertaken to encourage PRP participation in the voluntary cleanup, and to preserve the integrity of this process.

### CONCLUSION

Again, Alumax supports and incorporates the Technical Comments and the PRP Comments submitted. The purpose of these Supplemental Comments is to encourage a review of the facts and circumstances germane to the post-1975 PRPs and to ensure a credible process in the anticipated voluntary cleanup of the ACS Site in Griffith, Indiana and in order for the USEPA to fully provide a basis for the selection of the RA.

Respectfully Submitted,

ALUMAX INC.

By:

  
WILLIAM J. ANAYA,  
One of its attorneys

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